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S.B. CIVIL WRIT PETITION NO.2355/2006.
(Daulal Vs. Abdul Aziz & Ors.)

Date of Order :: 01.06.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. G.R. Goyal, for the petitioner.
Dr. Sachin Acharya }
Mr. Ramesh Purohit }, for the respondent.

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Learned counsel for the parties have made a mention stating urgency.

Dr. Sachin Acharya appears for respondent No.1. Service is complete and, at request, parties have been heard finally.

In keeping with the submissions made at the time of motion hearing on 18th May 2006, Mr. G.R. Goyal learned counsel appearing for the petitioner submits that the petitioner confines his prayer only for granting reasonable time for vacating the demised premises and prays that he may be allowed two year's time to vacate. Dr. Sachin Acharya appearing for the contesting respondent-landlord submits that the respondent does not intend to contest the prayer for granting of reasonable time to the petitioner; however, the respondent has serious reservations about the prayer for granting as long as two year's time for vacating the demised premises particularly when the landlord himself has purchased the premises for the purpose of his own business and because

of the litigation he is deprived of taking up his business for abnormally long time.

Having regard to the facts and circumstances of the case and looking to the facts that the Rent Tribunal has already revised the rent payable to the landlord; and the fact that the landlord has himself purchased this property only on 29.10.2004; and the fact that the petitioner is carrying on his business in the demised premises since 01.01.1980, this Court is of opinion that the prayer of the petitioner for granting of reasonable time may be considered but the period of two years as prayed for appears to be longer than reasonable.

Having regard to the overall facts and circumstances of this case, this Court is of opinion that if the petitioner is conditionally granted time to vacate the premises in question by 31st December 2007 it shall serve the ends of justice without causing prejudice to either of the parties.

In view of the aforesaid, this writ petition is allowed in part only to the extent of modifying the order passed by the Rent Tribunal that the petitioner shall be required to hand over the premises in question to the respondent-landlord by 31st December 2007 on the following conditions:-

(i) The petitioner shall personally submit an undertaking supported by affidavit before the tribunal within three weeks from today to the effect that on or before 31st December 2007, he shall

hand over peaceful and vacant possession of the demised premises to the landlord. He shall also undertake not to cause any damage to the demised premises nor to make any alteration and not to assign, sublet or in any manner part with possession to any other person of the premises in question and not to put the premises to any use other than the present use and not to cause any nuisance.

(ii) The petitioner shall deposit within three weeks the arrears, if any, of the rent and of the decreetal amount and shall further pay to the landlord the amount for use and occupation of the premises in question at the rate of Rs. 1745/- per month with effect from 01.06.2006 or deposit this amount in the bank account of the landlord (particulars whereof shall be furnished by the respondent-landlord to the petitioner within three weeks) month by month on or before 15th day of the next month.

It is made clear that upon the petitioner's failure to comply with any of the conditions aforesaid or violating any terms of the undertaking, the landlord shall be entitled to execute the certificate for recovery of possession forthwith in accordance with law.

Parties shall bear their own costs of this writ petition.

(DINESH MAHESHWARI), J.

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